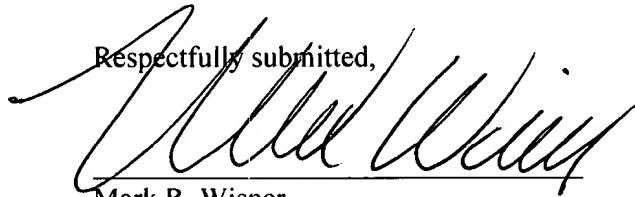


Turning now to the §102 rejection of claim 1 over Beckers, contrary to the allegations on page 4 of the Action, Beckers does not disclose the invention as claimed. It is, for instance, alleged that "the key as claimed is element 11 of Beckers" and that the "bearing surface as claimed is element 9 of Beckers." However, the key recited in the claim is recited as being formed on a lock that includes a bearing surface. The bearing surface is recited in the third element of the claim as "contact[ing] the adjacent vertebrae" when mounted to the implant in the space between vertebrae. Element 11 of Beckers is described on page 14 of that reference as the "hexagonal end 11 of tool 9," and on page 11 of that reference it is clearly stated that the tool 9 is **removed** from the implant 6 after the implant is placed into the intervertebral space. It is therefore impossible for the tool 9 to contact an adjacent vertebrae as recited in the claim such that the tool 9 cannot be said to include the claimed bearing surface and does not serve the same function as claimed. It is also clear that, contrary to the allegation in the Action, the element 11 of Becker is not a component of the claimed lock. Because Beckers does not disclose a lock as called out in claim 1, it is respectfully requested that this §102 rejection be reconsidered and withdrawn in the absence of the disclosure of this structure.

Reconsideration and withdrawal of each of the §102 rejection over Beckers, the double patenting rejection, the §112 rejection, and the objection to the specification is respectfully requested. Likewise, entry of the above amendments and new claim, consideration of the remarks set out herein, allowance of the claims, and passage of the application to issuance are respectfully requested. In the unforeseen event that there are questions and/or issues yet to be answered in this application, it is respectfully requested that Applicant's Attorney be contacted at the address and phone number set out below.

Respectfully submitted,



Mark R. Wisner
Registration No. 30,603
Wisner & Associates
2925 Briarpark, Suite 930
Houston, TX 77042
(713) 785-0555
Fax: (713) 785-0561

ATTORNEY FOR APPLICANT

Date: October 25, 2000

